

S. AMANDA MARSHALL, OSB #95347
United States Attorney
District of Oregon
FRANK R. PAPAGNI, JR., OSB #762788
Assistant United States Attorney
405 East 8th Avenue, Suite 2400
Eugene, Oregon 97401
Telephone: (541) 465-6771
Facsimile: (541) 465-6917
frank.papagni@usdoj.gov

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF OREGON

(EUGENE DIVISION)

UNITED STATES OF AMERICA,)	Case No. 10-CR 60066-HO
)	
Plaintiff,)	SUPPLEMENTAL TO
)	UNITED STATES' OPPOSITION
v.)	TO DEFENDANTS' MOTION
)	TO POSTPONE TRIAL
STEVEN DWIGHT HAMMOND,)	(CR 45, 46)
DWIGHT LINCOLN HAMMOND, JR.)	
)	
Defendants.)	

The United States of America, by and through S. Amanda Marshall, United States Attorney for the District of Oregon, and Frank R. Papagni, Jr., Assistant United States Attorney, respectfully provides supplemental facts to its opposition to Defendants' motion to continue trial for the third time.

Grounds Offered for Postponement

One reason for Defendants seeking another postponement of the state trial of one of the defense attorneys, Mr. Matasar, conflicts with the trial date of this case.

Conflicting Trial of State Case

After the Government filed its opposition on October 11, 2011, Linn County Deputy District Attorney Ani Yardumian, the prosecutor in *State v. Sundberg*, Linn County Circuit Court Case No. CC05102194, notified it that she had reviewed the pleadings and “everything (she) previously represented about what is on the court recordings for every (court) appearance we have had is correct and (she) stand(s) by it.”

However, to be complete, Ms. Yardumian spoke with Linn County Circuit Court Calendar clerk Tracy Krug about any mention of Mr. Matasar in any e-mails sent to the court. Clerk Krug located one sent to Ms. Yardumian and Ms. Krug on June 6, 2011, in which Ms. Shipsey wrote:

“Today we are going to be requesting a set over or picking a trial date. I wanted to talk with you ahead of time to figure out when you would be available for a trial. *Mr. Matasar* and I have trials in August, another two week trial started October 5, a two week trial Nov 8-18 and a 2 week trial in Washington county started December 6. Ideally, we could do this case in February, *although I could be available starting January 17.*” (Italics added).

After Ms. Yardumian replied the latest she would like the trial set was in January, Ms. Shipsey e-mailed Clerk Krug and Ms. Yardumian on June 30, 2011:

“I wanted to get back to you on the Sundberg matter. January is fine with me, but I would need January 16 or later. I do expect this to be 5 days. Please let me know availability.”

Accordingly, Ms. Yardumian still maintains that before August 11, 2011 (the date this case was set for trial), other than the fact Ms. Shipsey’s letterhead had Mr. Matasar’s name on it at the top and was mentioned in a June 6, 2011, e-mail, she had no indication Mr. Matasar was going to be co-counsel at the *Sundberg* trial.

Conclusion

This additional information does not alter the Government’s opposition to Defendant’s motion to continue the trial date beyond January 2012.

DATED this 18th day of October, 2011.

Respectfully submitted,

S. AMANDA MARSHAL
United States Attorney

/s/ *Frank R. Papagni, Jr.*
FRANK R. PAPAGNI, JR.
Assistant United States Attorney